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OFFICE OF PETITIONS

In re Application of :
Elmer M. Johnson et al. :
Application No. 10/604,570 : DECISION ON PETITION
Filed: July 30, 2003 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: 1111.03001 :
Title: DOOR SECURITY APPARATUS :
:

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)¹, filed on December 12, 2007, to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

A Notice of Allowance and Issue Fee Due (first notice) was mailed on December 1, 2006, which set a three-month period for the submission of the issue and publication fees. No extensions of time are permitted for transmitting issue or publication fees².

On February 1, 2007, the Office mailed a "Notice to File Corrected Application Papers - Notice of Allowance Mailed"

¹ A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² See MPEP § 710.02(e).

(second notice), which indicated that corrected drawings were required. The notice set a two-month non-extendable period for response.

As such, the Office set **two concurrent deadlines**: both notices indicated that unless Petitioner submitted the issue and publication fees by March 1, 2007 and the corrected drawings by April 1, 2007, the present application would go abandoned. **Each of these notices set forth a separate requirement, and each set a period for response that ran independently of the other.**

Corrected drawings were received on March 31, 2007. No response to the first notice was received, and accordingly, the above-identified application became abandoned on March 2, 2007. A Notice of Abandonment was mailed on May 3, 2007.

A petition pursuant to 37 C.F.R. § 1.181 was filed on July 3, 2007, which was dismissed via the mailing of a decision on October 29, 2007.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the present petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the present petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

With this petition, Petitioner has submitted the petition fee and a statement that is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required. It is noted that the issue and publication fees were received on July 3, 2007.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225³. All other inquiries

³ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning the status of the application should be directed to
the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions